

Application No. 10/028,338
Response dated December 12, 2005
Reply to Office Action of September 14, 2005

Remarks

Claims 1 – 23 are presented for Examiner Kidwell's consideration.

No new matter has been added.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the following remarks is respectfully requested.

Application No. 10/028,338
Response dated December 12, 2005
Reply to Office Action of September 14, 2005

Response to Rejections

By way of the Office Action mailed September 14, 2005, claims 1 – 23 stand rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent 4,738,678 to Paulis (*Paulis*), in view of U.S. Patent Application 2003/0077307 to Klofta *et al.* (*Klofta*) and further in view of U.S. Patent Number 5,648,083 to Blieszner *et al.* (*Blieszner*). This rejection is respectfully traversed to the extent that it may apply to Applicants' claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. M.P.E.P. §§ 2142, 2143. A *prima facie* case of obviousness has not been established and this rejection should be withdrawn.

The Examiner states that,

Paulis discloses an absorbent article used in conjunction with a wet wipe as set forth in the abstract and in the figures. (Office Action at page 2).

It would have been obvious to one of ordinary skill in the art to modify the topsheet of Paulis to provide a skin care composition because the skin care composition is useful for protecting the skin as taught by Klofta in the abstract. (OA at page 3).

It also would have been obvious to one of ordinary skill in the art to modify the wipe of Paulis to provide a skin care solution because the skin care solution provides effective protection against perineal dermatitis as taught by Blieszner in col. 1, lines 1 – 35. (OA at page 3).

Despite these assertions, no *prima facie* case of obviousness has been established because the Examiner has provided no motivation to combine these references and the prior art references do not teach or suggest a system comprising a disposable absorbent article with a specific skin care composition on the bodyside liner used in conjunction with a wet wipe having a specific skin care solution as required by Applicants' claims.

Application No. 10/028,338
Response dated December 12, 2005
Reply to Office Action of September 14, 2005

The Examiner merely recites a purported benefit of *Klofta*, i.e., to protect the skin, and summarily concludes that this is adequate motivation to combine *Klofta* with *Paulis*. The Examiner has provided no citation in either *Klofta* or *Paulis* to indicate that one skilled in the art would be motivated to take the composition of *Klofta* and add it to the topsheet of *Paulis*.

Similarly the Examiner merely recites a purported benefit of *Blieszner*, i.e., to provide protection against dermatitis, and summarily concludes that this too is adequate motivation to combine *Blieszner* with *Paulis*. The Examiner has provided no citation in either *Blieszner* or *Paulis* to indicate that one skilled in the art would be motivated to take the skin care solution of *Blieszner* and modify the wipe of *Paulis*.

Additionally, the Examiner has provided no teaching in *Paulis*, *Klofta* or *Blieszner* to indicate that one skilled in the art would be motivated to combine all three references to create a system comprising a disposable absorbent article with a specific skin care composition on the bodyside liner used in conjunction with a wet wipe having a specific skin care solution.

It appears that the Examiner is relying on impermissible hindsight to find Applicants' invention by piecing together the prior art. The teaching, suggestion, or motivation for the modification or combination and the reasonable expectation of success must both be found in the prior art and cannot be based on an applicant's disclosure. M.P.E.P. §§ 2142, 2143. The fact that the references *can* be modified or combined does not render the resultant modification or combination obvious unless the prior art teaches or suggests the desirability of the modification or combination. M.P.E.P. §§ 2142, 2143.

The Examiner further concludes,

that *Paulis* provides the general knowledge in the art of providing a diaper that is used in conjunction with a wet wipe. The **substitution** of these **essential** working parts in order to provide the most effective **product** is within the level of ordinary skill in the art. (OA at page 3, emphasis added).

Applicants respectfully disagree with this assertion. The modification of the topsheet of *Paulis* with the composition of *Klofta* is an "addition" NOT a "substitution" as suggested by the Examiner because *Paulis* does not teach a topsheet with a skin care composition. Neither *Klofta* nor *Paulis*, alone or in combination, teach a system comprising a disposable absorbent

Application No. 10/028,338
Response dated December 12, 2005
Reply to Office Action of September 14, 2005

article with a specific skin care composition on the bodyside liner used in conjunction with a wet wipe having a specific skin care solution.

Likewise, the modification of the wipe of *Paulis* with the skin care solution of *Blieszner* is an "addition" NOT a "substitution" because *Paulis* does not teach a wipe with a skin care solution. *Paulis* teaches a premoistened wipe for cleaning the user, i.e., a cleaning device. (col. 1: ll. 19, 20 and col. 3, ll. 19, 20). Neither, *Paulis* nor *Blieszner*, alone or in combination, teach a system comprising a disposable absorbent article with a specific skin care composition on the bodyside liner used in conjunction with a wet wipe having a specific skin care solution.

Finally, the Examiner has failed to make a *prima facie* case that one skilled in the art would consider these "essential working parts" because the Examiner has failed to find the "parts" of a "system" but has instead found "parts" of various "products".

Therefore, no *prima facie* case of obviousness has been made because the prior art references do not teach or suggest all the claim limitations, i.e., a system comprising a disposable absorbent article with a specific skin care composition on the bodyside liner used in conjunction with a wet wipe having a specific skin care solution as required by Applicants' claims.

For at least these reasons, the rejections as to claims 1 – 23 should be withdrawn.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: 920-721-3016.

Respectfully submitted,
EARL DAVID BROCK ET AL.

By: 

David J. Arteman
Registration No.: 44,512
Attorney for Applicant(s)